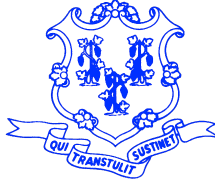


# The Connecticut General Assembly

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## Memorandum

**To:** Legislative Regulation Review Committee  
**From:** Legislative Commissioners' Office  
**Committee Meeting Date:** October 23, 2012

<b>Regulation No:</b>	2012-41
<b>Agency:</b>	Insurance Department
<b>Subject Matter:</b>	Requirements for Replacement of Life Insurance and Annuities
<b>Statutory Authority:</b> (copy attached)	38a-435

	<b>Yes or No</b>
<b>Mandatory</b>	N
<b>Federal Requirement</b>	N
<b>Permissive</b>	Y

**For the Committee's Information:**

### Substantive Concerns:

1. On pages 8 and 10, sections 38a-435-5(a)(3) and 38a-435-6(a) of the proposed regulation provide, in part, that replacing and existing insurers be able to produce copies of certain records for at least five years but such sections do not state the trigger for when said five-year period begins to run (e.g. date of application, date of submission to insurer, effective date of policy or contract). These provisions should be amended to specify the trigger for said five year period.

2. On pages 10 and 11, section 38a-435-7(b)(1) of the proposed regulation provides, in part:

"...The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this section; ..."

The instant language is unclear because section 38a-435-7 does not establish a requirement to obtain the applicant's signature. Moreover, said section does not require the notices described in said section to be signed by the applicant.

### Technical Corrections:

1. Throughout the proposed regulation, "sections 38a-435-1 through 38a-435-8" should be "sections 38a-435-1 to 38a-435-8" for proper form.

2. Throughout the proposed regulation, whenever "**Section**" appears in the section heading, it should be "**Sec.**" and a bold period should be inserted after the section number for proper form.

3. On page 1, in line 1 of section 38a-435-1(a)(2)(A), "assure" should be "Ensure" for proper form, and in line 1 of section 38a-435-1(a)(2)(B), "reduce" should be "Reduce" for proper form.

4. On page 1, in line 1 of section 38a-435-1(b), "otherwise" should be deleted as unnecessary.

5. On page 1, in line 2 of section 38a-435-1(b)(3), "service" should be inserted after "funeral" for consistency with the General Statutes.

6. On page 1, in line 6 of section 38a-435-1(b)(4), "being" should be inserted before "exercised" for consistency.

7. On page 2, in lines 1-2 of section 38a-435-1(b)(6)(B), "subdivision (6) of this subsection" should be "this subdivision" for proper form.

8. On page 2, in line 1 of section 38a-435-1(b)(7), "life insurance" should be deleted for consistency.
9. On page 2, in line 2 of section 38a-435-1(b)(9), "annuity" should be deleted for consistency; and in line 3 of said section, "life insurance" should be deleted for consistency.
10. On page 3, in line 1 of section 38a-435-1(c), "(C)" should be "(c)" for proper form; and in line 2 of said section, "38a-435-6(b)" should be "38a-435-6(2)" for accuracy.
11. On page 3, in section 38a-435-2, the following definitions should be inserted for clarity and the subdivisions renumbered accordingly:
  - "(2) "Contract" means an annuity contract."
  - "(7) "Policy" means a life insurance policy."
12. On page 3, in line 1 of section 38a-435-2(2), the hyphen between "Direct" and "response" should be deleted for consistency; and in line 3 of said section, "mails" should be "mail" for proper form.
13. On page 3, in line 1 of section 38a-435-2(3), "existing" should be inserted before "policy" for clarity.
14. On page 3, in lines 1 and 2 of section 38a-435-2(4), "Existing policy or contract" means an individual life insurance policy (policy) or annuity contract (contract) in" should be "(5) "Existing policy or contract", "existing policy" or "existing contract" means an individual policy or individual contract, as applicable, in" for clarity.
15. On page 3, in line 8 of section 38a-435-2(5), "policyholder" should be "policy owner" for consistency; in line 12 of said section, "policyholder's" should be "policy owner's" for consistency; and in lines 13-14 of said section, "is not intended to increase or decrease" should be "shall not affect" for clarity.
16. On page 3, in line 2 of section 38a-435-2(7)(A), "a policy" should be "such policy" for clarity.
17. On page 4, in line 1 of section 38a-435-2(8), ' "Producer," means a person as defined in' should be ' "Producer" has the same meaning as provided in' for proper form.
18. On page 4, in section 38a-435-2(11), the designators "(a)" to "(e)", inclusive, should be "(A)" to "(E)", respectively, for proper form.
19. On page 4, in line 1 of section 38a-435-2(12), "a sales" should be "an" for clarity; and in line 3 of said section, "or" before "completed" should be deleted for clarity.

20. On page 5, in line 4 of section 38a-435-3(b), "unless such reading has been waived by the applicant," should be inserted after "application" for clarity; in line 5 of said section, "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix A" for clarity; in line 13 of said section, a comma should be inserted after "aloud" and "(in which case the producer need not have read" should be deleted, for clarity; and in line 14 of said section, "the notice aloud)" should be deleted and "a copy" should be inserted before "left", for clarity.

21. On page 5, in line 1 of section 38a-435-3(c), "life insurance policies or annuities" should be "policies or contracts" for consistency; in line 2 of said section, "properly" should be deleted for clarity; and in line 3 of said section, "the name of" should be inserted before "the insured" for clarity and "the existing" should be inserted before "insurer," for consistency.

22. On page 5, in line 1 of section 38a-435-3(d), "transaction," should be deleted and a comma should be inserted after "replacement", for clarity.

23. On page 5, in line 2 of section 38a-435-3(e), a comma should be inserted after "Agencies" for clarity and a comma should be inserted after "replacement" for clarity; and in line 3 of said section, "transaction," should be deleted for consistency;

24. On page 6, in lines 7 and 8 of section 38a-435-3(e), "materials" should be "material" for consistency.

25. On page 6, in the introductory sentence of section 38a-435-4, "that uses producers" should be inserted after "insurer" for clarity.

26. On page 6, in line 1 of section 38a-435-4(a), "insure" should be "ensure" for proper grammar; and in line 4 of said section, a period should be inserted after "Agencies", "that" should be deleted, and "Such system may include, but need not be limited to, systematic customer surveys, interviews, confirmation letters or internal monitoring programs, and" should be inserted before "shall", for proper form.

27. On page 6, in line 1 of section 38a-435-4(a)(1), "Inform" should be "Informing" for proper form.

28. On page 6, in line 1 of section 38a-435-4(a)(2), "Provide" should be "Providing" for proper form; in line 3 of said section, "and" should be inserted after "replacements" for proper form.

29. On page 6, in line 2 of section 38a-435-4(a)(3), "transaction" should be deleted for consistency; and in line 3 of said section, "paragraph" should be "subdivision" for proper form.

30. On page 6, in line 4 of section 38a-435-4(a)(5), the period after "producer" should be a semicolon and "Compliance with sections 38a-435-1 through 38a-" should be deleted, for clarity; and lines 5 to 8, inclusive, of said section should be deleted for clarity.

31. On page 6, in line 1 of section 38a-435-4(b), "life insurance" should be deleted for internal consistency; and in line 2 of said section, "annuity" should be deleted for internal consistency.
32. On page 7, in line 1 of section 38a-435-4(b)(1), "Life" should be "Policy" for internal consistency.
33. On page 7, in line 1 of section 38a-435-4(b)(3), "Annuity contract" should be "Contract" for internal consistency.
34. On page 7, in line 3 of section 38a-435-4(d), "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix A" for clarity.
35. On page 7, in lines 1-2 of section 38a-435-4(e), "each insurer shall" should be deleted for proper form.
36. On page 7, in line 1 of section 38a-435-4(h), "Maintains" should be "Maintain" for proper form.
37. On page 8, in line 1 of section 38a-435-5(a)(2), "other" should be deleted for clarity; in line 3 of said section, "from receipt of" should be "after receiving" for clarity; in line 5 of said section, the comma after "application" should be a period and "and" should be "The replacing insurer shall", for clarity; and in line 9 of said section, "of" should be "after receiving" for consistency.
38. On page 8, in line 3 of section 38a-435-5(a)(4), "from receipt of" should be "after receiving" for clarity; in line 10 of said section, "; such" should be ". Such" for proper form; and in line 11 of said section, "the notice described in" should be inserted after "in" for accuracy, and "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix A or C" for clarity.
39. On page 9, in line 3 of section 38a-435-5(c), "made of an insurer pursuant to" should be "of" for clarity.
40. On page 9, in line 1 of section 38a-435-5(c)(2). "from" should be "after" for clarity.
41. On page 9, in line 2 of section 38a-435-5(c)(2)(A), "by" should be "from" for clarity.
42. On page 9, in line 1 of section 38a-435-5(c)(3), "Be able to produce" should be "Produce" for clarity, and "set forth in subdivision (2)(A) of this subsection" should be inserted after "letter" for clarity.
43. On page 10, in section 38a-435-6, the designators "(a)" to "(c)", inclusive, should be "(1)" to "(3)", respectively, for proper form.

44. On page 10, in line 3 of section 38a-435-6(b), a comma should be inserted after "or" for clarity; in line 4 of said section, "policy summary" should be deleted for clarity; in line 5 of said section "from receipt of" should be "after receiving" for clarity; in line 6 of said section, ", a policy summary" should be inserted after "replaced" for clarity; and in line 8 of said section, "from receipt of" should be "after receiving" for clarity.

45. On page 10, in line 2 of section 38a-435-6(c), "to the policy owner" should be inserted after "notice" for clarity.

46. On page 10, in line 10 of section 38a-435-7(a), "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix B" for clarity.

47. On page 10, in line 3 of section 38a-435-7(b)(1), "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix C" for clarity.

48. On page 11, in line 2 of section 38a-435-7(b)(2), the comma after "Agencies" should be deleted for proper form.

49. The pages of the proposed regulation, including the appendices, should be renumbered to reflect the actual number of pages that comprise the proposed regulation, for clarity and the Statement of Purpose should be placed at the end of the regulation, following the appendices .

50. Appendix A, Appendix B and Appendix C should be designated as "(NEW)" for proper form and clarity.

51. A new effective date entry has been typed on the certification page that provides that the proposed regulation is effective "90 days after the Regulation is adopted". Pursuant to Section 4-170 of the Connecticut General Statutes, a proposed regulation is effective after the regulation is filed in the office of the Secretary of the State by the agency as provided in Section 4-172 of the Connecticut General Statutes, not upon approval of the regulation by the regulation review committee. The effective date should reference the date of filing with the office of the Secretary of the State, rather than the date of adoption, for purposes of clarity and accuracy.

**Recommendation:**

<p>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part <b>X</b> Rejection without prejudice</p>
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**Reviewed by:** Kumi Sato / Bradford M. Towson

**Date:** October 10, 2012

**Sec. 38a-435. (Formerly Sec. 38-147a). Regulations re replacement of or borrowing on life insurance products, policies or contracts.** The Insurance Commissioner may make regulations governing the sale or offer of sale of life insurance products, including annuities, when such sale or offer involves the replacement of existing policies or contracts or the borrowing on or lapsing of such existing policies or contracts. Such regulations may prescribe (a) the form in which such offer or proposal should be made; (b) the form of notice to the insurance companies involved; (c) the questions to be contained in application forms for life insurance products pertaining to existing insurance; and (d) the form of notice to the purchaser. The commissioner may suspend or revoke the license of any insurance producer violating any such regulation.